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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,826	01/18/2002	Heinz-Christen Lorenzen	31512-177188	6939

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EXAMINER

WALLS, DIONNE A

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/050,826	<b>Applicant(s)</b> LORENZEN ET AL.	
	<b>Examiner</b> Dionne A. Walls	<b>Art Unit</b> 1731	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 June 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
     If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
     a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Drawings*

This Application lacks formal drawings. The informal drawings filed in this application are acceptable for examination purposes; however, if the application is allowed, Applicant will be required to submit new formal drawings.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7, 9, 14-16, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ffoulkes (US. Pat. No. 3,138, 163).

Ffoulkes discloses all that is recited in the claims (Note: "screen 74" corresponds to the claimed "means for segregating"; "carding drum 86" corresponds to the claimed "means for advancing an elongated stream of segregated long particles along a ...path"; "collecting belt 91" and "the 'shorts' are introduced ... continuously into the general flow of shreds of good length" corresponds to the claimed "means for admitting into...elongated stream/path... short particles/ "conveyor"; "reserve of shorts...provided in reservoir 84" corresponds to the claimed "means for collecting/gathering short particles" ; "small size tobacco shreds or 'shorts' are introduced ...intermittently into the tobacco braid" corresponds to the claimed "introducing into the path... a series of spaced apart batches"; "metering drum 96" corresponds to the claimed "means for

transferring metered quantities of short particles from said collecting means to said conveyor"; see cols. 1,4-5; and fig. 4 ). Since there is no indication that the short tobacco particles are admitted in homogeneous distribution, it is presumed that such distribution is *heterogeneous*. However, in the alternative, such particles are obviously admitted into the stream in heterogeneous distribution since the particles are introduced "randomly"(as stated in column 4, line 20).

Regarding claim 3, while there may be no articulation, in Ffoulkes, of confining the stream (of long tobacco particles) and the batches (of short tobacco particles) in a tubular wrapper, and severing the wrapper and the stream between successive batches, it follows that since Ffoulkes discloses a cigarette making machine that the process of making cigarettes in said machine would obviously include wrapping and severing steps since these are conventional steps in the processing of cigarettes.

Regarding claim 4, while there is no specific articulation in Ffoulkes that the batches of short particles are admitted substantially centrally of said stream, absent any indication to the contrary, and since Ffoulkes does state that the goal of the invention is to obtain uniformity of the cigarette tobacco rod, it follows that one having ordinary skill in the art would ensure that the short particles be delivered to the general flow of longer shreds in a manner that would allow said particles to be positioned centrally of the long particles.

Regarding claim 7, while Ffoulkes may not specifically state that the short tobacco particles are monitored and are introduced at a rate which is dependent upon the quantity of short particles in the mass, it does state that the short tobacco particles

are directed "at a controlled rate" onto the tobacco collecting belt. This infers that there is some outside intervention to ensure proper proportioning of the tobacco stream. It would have been obvious to one having ordinary skill in the art at the time of the invention to fabricate the cigarette machine such that the processing steps included monitoring the quantity of the "shorts" and delivering them at a rate which depends on quantity, to ensure uniformity in the tobacco rod of the finished product.

***Allowable Subject Matter***

3. Claims 8, 10-13, 17 and 19-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

4. Applicant's arguments filed on June 16<sup>th</sup>, 2003 have been fully considered but they are not persuasive.

- Applicant argues that Ffoulkes teaches short tobacco particles which are distributed homogeneously into the stream of longer particles and, therefore, does not read on the instant claimed invention which requires a heterogeneous distribution of short tobacco particles. The Examiner, however, disagrees. As stated above, the Examiner believes that since Ffoulkes teaches the "random" introduction of short particles, the Ffoulkes reference obviously satisfies the "heterogeneous distribution" limitation – as this phrase is understood in the instant specification (i.e. the quantity of short tobacco per unit length varies). Therefore, the prior art rejection over Ffoulkes is considered proper.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

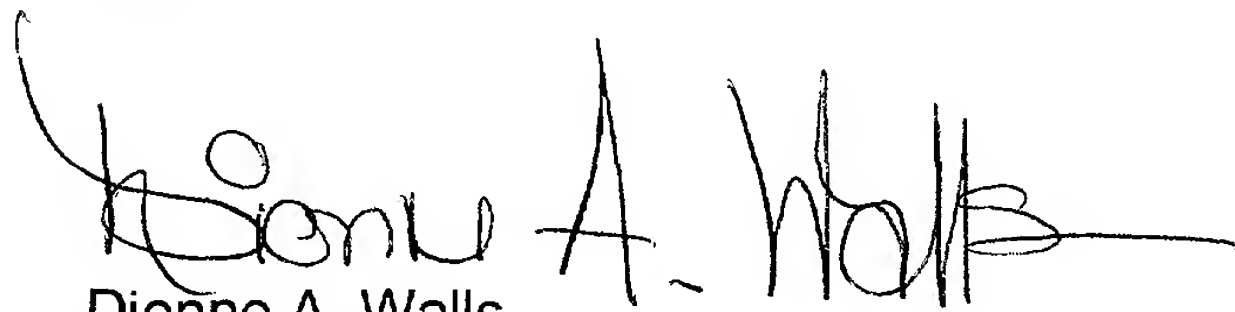
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne A. Walls whose telephone number is (703) 305-0933. The examiner can normally be reached on Mon-Fri, 7AM - 4:30PM (Every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on (703) 308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

A handwritten signature in black ink, appearing to read "Dionne A. Walls". The signature is stylized with a large, looped initial "D" and a long horizontal stroke at the end.

Dionne A. Walls  
August 25, 2003